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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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September 8, 1997

Mr. Peter Cowhey
Chief, International Bureau
Federal Communications Commission
2000 M Street, N.W., Room 830
Washington, D.C. 20554

Re: IB Docket 96-220

Dear Mr. Cowhey:

Leo One USA Corporation ("Leo One USA") hereby briefly responds to the August 28, 1997 letter of Final Analysis Communication Services, Inc. ("Final Analysis") regarding the pending Little LEO proceeding. As the Commission is aware, Leo One USA has repeatedly urged the Commission to resolve this proceeding based on the existing record. Nevertheless, Leo One USA is compelled to correct for the record a number of glaring inaccuracies in the August 28, 1997 Final Analysis letter. The following are statements made in the Final Analysis letter and Leo One USA's response.

1. *Final Analysis made clear its preference for the 400 MHz band in its initial comments in the instant proceeding.*¹

Leo One USA Response: The December 20, 1996 Final Analysis Comment in IB Docket 96-220 does not contain any statement indicating Final Analysis' interest in using the 400 MHz band for subscriber links. It is interesting to note that Final Analysis does not provide any citation to a page in its initial comments in this proceeding regarding this point.

2. *Leo One initially proposed operations in segments of the 137 MHz band that overlapped with NOAA channels and therefore Leo One must have assumed these operations would be subject to time sharing.*²

¹ See Final Analysis Letter at 2.

² See Final Analysis Letter at n. 2.

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Leo One USA Response: The Leo One USA application clearly states that Leo One USA expected that NOAA would vacate the TIP and ATP channels by the year 2000. Leo One USA stated in its application that "[MetSat] operations will move to the band edges prior to January 1, 2000. Leo One USA does not propose to use any of these frequencies until after that date. Thus interference with the METSAT service will be unlikely."³

3. *[A]s Leo One knows, Final Analysis' actual prototype terminals were physically observed earlier this year by Commission staff.*⁴

Leo One USA Response: Final Analysis continued to propose to place feederlinks only in the 400 MHz band up until March 1997. For instance, in its January 1997 Reply Comments Final Analysis stated that "the public interest would best be served by assigning it spectrum in the 400-401 MHz downlink bands. Also, Final Analysis itself would favor an assignment plan pursuant to which this downlink spectrum was specifically available for feederlinks."⁵ Additionally, Final Analysis has never specified the cost of the actual investment it has made in the 400 MHz band. Finally, Final Analysis has not demonstrated that any 400 MHz band investment would be stranded if Final Analysis operated in the 137 MHz band.

4. *The Commission's rules and policies requiring an experimental licensee to proceed at risk go to the issue of whether a particular applicant may expect to receive a license. The policy does not address the current situation -- i.e., the assignment of particular frequencies, already allocated to a particular service, to an individual applicant otherwise qualified to be a licensee.*⁶

Leo One USA Response: Here, Final Analysis essentially admits that it is attempting to use its so-called experimental program to bootstrap into a particular license. Final Analysis argues that experimental licenses should result in preference for particular frequency assignments. This is totally twisted logic that is not supported by any citation. Final Analysis is requesting a special benefit from the Commission based on investment it undertook at its own peril. If the Commission chooses to accept the Final Analysis argument, the FCC's rules should be clarified

³ See Application of Leo One USA at Appendix H-2.

⁴ *Id.* at 2.

⁵ See Reply Comments of Final Analysis, January 13, 1997, at 40.

⁶ *Id.* at 3.

and all the applicants' investment should be documented. Leo One USA believes that this would be bad policy because of the dramatic impact it would have on the behavior of applicants in future proceedings.

5. *Leo One wrongly claims that it is the only applicant prepared to implement near real-time service.*⁷

Leo One USA Response: Again, Final Analysis mischaracterizes the facts. Leo One USA has never stated that Final Analysis did not want to implement a near real-time system. What Leo One USA has repeatedly stated is that it is the only applicant that is prepared to implement a near real-time system in the currently allocated spectrum. Final Analysis concedes this point in the August 29, 1997 letter in a discussion of the frequency hopping technique advocated by Leo One USA when it concludes that a time sharing requirement will force it to offer only intermittent services.⁸ It should also be noted that each of the applicants has a different definition of near real-time.

6. *System 2 is seriously handicapped.*

Leo One USA Response: The Systems 1 and 2 described in Final Analysis' letter contain virtually the same downlink band plans that are described in Leo One USA's comments in this proceeding as System A and System B, with one important exception. The 137 MHz band system is improved because the VITA and Starsys channels in the 400 MHz band are associated with the 137 MHz band system. In its Reply Comments in this proceeding, Final Analysis stated, "Leo One USA's proposed System A (System 1) and B (System 2) would be fungible with one another for the purpose of each accommodating a single large system . . ."⁹ It further stated, "Systems A and B are fungible according to Final Analysis' proposed standards because each has approximately the same frequency available for feeder links, has the same downlink capacity and approximately the same availability."¹⁰ Final Analysis once again has changed its position and now believes that System B (New System 2) would prevent implementation of a full constellation offering near real-time services. This is quite curious given that there is no longer a requirement for System 2 to coordinate with GE Starsys. What is most shocking about this argument

⁷ *Id.*

⁸ See Final Analysis Letter at n. 19.

⁹ See Reply Comments of Final Analysis at 32.

¹⁰ *Id.* at n. 48.

is the fact that Final Analysis will not implement a near real-time system if assigned either System 1 or 2 and will be intermittent regardless of the band plan adopted.

7. *In fact giving Leo One everything it wants in this proceeding guarantees it a windfall, because the concomitant effect would be to deny other applicants, particularly Final Analysis the opportunity to be effective competitors.*¹¹

Leo One USA Response: As Final Analysis acknowledges in numerous statements, it will not provide near real-time services in the existing bands and therefore it is limited to serving intermittent markets. Thus, the assignment of additional spectrum in the 400 MHz band to Final Analysis will not increase its system capabilities.

8. *Leo One could achieve the same capacity and availability that it claims it would enjoy in the 400 MHz band by utilizing a combination of 137 MHz spectrum and the VITA band.*¹²

Leo One USA Response: Leo One USA has repeatedly demonstrated through comprehensive technical analysis placed in the record that it cannot be accommodated in the 137 MHz band.¹³

9. *Leo One does not explain why it is now so dependent upon near real-time service when its amended application on file indicates a market plan based on a limited store-and-forward system that would not require continuous contact with its gateway.*¹⁴

Leo One USA Response: The Leo One USA system has always been designed to be store-and-forward. The issue is how fast after the message is received is it forwarded. The Leo One USA business plan requires near real-time service over CONUS. Thus, the satellite system has been designed so that any message transmitted from CONUS can be forwarded immediately. In other latitudes and for certain applications the message may be stored for a short period of time.

¹¹ Final Analysis Letter at 9.

¹² *Id.* at 10.

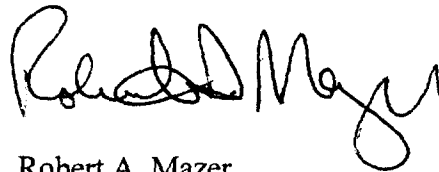
¹³ See *Ex Parte* filings of Leo One USA in IB Docket 96-220, March 6, 1997, March 14, 1997, March 28, 1997, April 9, 1997, April 25, 1997, May 5, 1997 and May 30, 1997.

¹⁴ *Id.* at n. 14.

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As the above demonstrates, the resolution of this proceeding comes down to whether the Commission wants to accommodate Final Analysis' interest in recouping its so-called investment in the 400 MHz band or Leo One USA's interest in offering a near real-time service. Leo One USA urges the Commission to reject Final Analysis' arguments and license a system that enables the provision of near real-time service to the public.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert A. Mazer". The signature is fluid and cursive, with the first name "Robert" being more prominent and the last name "Mazer" following in a similar style.

Robert A. Mazer
Albert Shuldiner
Counsel for Leo One USA Corporation

cc: Parties of Record

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Letter to Peter Cowhey was sent by first-class mail, postage prepaid, this 8th day of September, 1997, to each of the following:

- * Chairman Reed E. Hundt
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- * Commissioner Rachelle B. Chong
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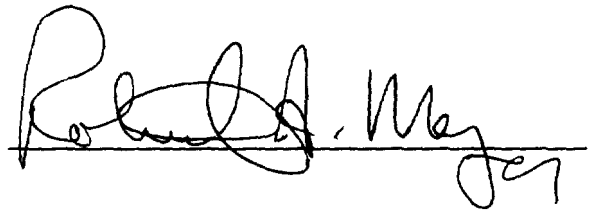
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A handwritten signature in black ink, appearing to read "Robert A. May", is written over a horizontal line. The signature is stylized with large, flowing loops and a long, sweeping underline that extends to the right.